

UNITED STATES OF AMERICA) DOCKET NO. 3:16-CR-200
)
 vs.)
)
 BILLY DARRYL FLOYD,)
)
 Defendant.)
 _____)

P R O C E E D I N G S

THE COURT: All right. Call United States versus Billy Darryl Floyd.

Mr. Floyd, come on up. This is your case. You're representing yourself.

MR. FLOYD: Excuse me. Hold on before we start here today. How are you doing this morning?

THE COURT: I'm doing fine, Mr. Floyd.

MR. FLOYD: Good. Did you have a good Mother's Day?

THE COURT: I did.

MR. FLOYD: Good.

THE COURT: I did. Hope you did.

MR. FLOYD: Yeah, not bad.

THE COURT: Now, go ahead, Mr. Floyd. What's up?

MR. FLOYD: I want to -- number one, I'm here on special appearance today.

Number two, I come in peace.

Number three, I want to hear the truth, the whole truth and nothing but the truth.

Number four, if anybody thinks they're representing me here today or presume they're representing me here today or is implied they're representing me here today -- are you on -- is this on the record?

THE COURT: Oh, yeah.

MR. FLOYD: Are you typing?

1 THE COURT: It's on the record.

2 MR. FLOYD: It needs to be on the record.

3 THE COURT: She's typing. It's being recorded
4 verbally. We've got recording machines that are taking it
5 down and she's typing.

6 MR. FLOYD: I do want to make sure --

7 THE COURT: Oh, yes, sir.

8 MR. FLOYD: -- that she is.

9 And I greatly appreciate your courtesy. Thank you.

10 If you think you're representing me, anyone in this
11 courtroom today thinks they're representing me or implied
12 representing me or presumes they're representing me, you are
13 fired, you are fired, you are fired. Okay.

14 You got it on record?

15 THE COURT: I'm sure we -- yeah, I'm sure we've got
16 it on record.

17 MR. FLOYD: Okay.

18 THE COURT: I can tell this is -- I don't know what
19 I did to deserve such a wonderful day today.

20 MR. FLOYD: Hey, you deserve seeing me this morning.

21 THE COURT: Yes, I did.

22 All right. Mr. Floyd, we have a motion to continue.

23 MR. FLOYD: One minute. We have some business
24 before the Court.

25 THE COURT: Yeah, we do have business.

1 MR. FLOYD: We have business before the Court.

2 THE COURT: You know something --

3 MR. FLOYD: Before we get started --

4 THE COURT: -- I actually -- I actually get to make
5 the decisions.

6 MR. FLOYD: I understand --

7 THE COURT: Mr. Floyd, I get to call the order. I
8 know you've got several motions that you want to have heard
9 today. All these people that we have back here that are
10 attorneys, they can't be released. They are your standby
11 counsel.

12 MR. FLOYD: These are not my standby counsel.

13 THE COURT: They are --

14 MR. FLOYD: Once again, you don't have the right
15 to --

16 THE COURT: They're here for the Court -- the
17 Court -- the Court --

18 MR. FLOYD: You are stepping on my --

19 THE COURT: Mr. Floyd, one of us gets to talk at a
20 time. Listen to me first.

21 They are your standby counsel and you don't have to
22 use them. But the Court has appointed them to represent you.
23 I'm sure that they're as disappointed as you are. But they
24 are your standby counsel for this matter. And if they -- if
25 you need help, they're the ones that you'll need to get help

1 from on legal matters.

2 Now, you will get to try your case when the time
3 comes in front of the jury and you will need to follow the
4 rules of court when we try this case.

5 But let's go ahead and first of all --

6 MR. FLOYD: Objection. Objection, Your Honor.

7 THE COURT: What is your objection?

8 MR. FLOYD: It is -- it is my constitutional right
9 to have counsel of my choice. It's not a question whether
10 you -- whether you can rule on it or not. You can't. It is
11 my -- I am not your Fourteenth Amendment citizen. I am not a
12 U.S. citizen. I domicile in the State of North Carolina
13 and -- I domicile in the State of North Carolina and my rights
14 are in the State of North Carolina.

15 THE COURT: Do we need to call ICE? Are you in this
16 country illegally?

17 MR. FLOYD: Absolutely not. You understand what I'm
18 telling you. You absolutely 100 percent understand.

19 THE COURT: I understand that that is --

20 MR. FLOYD: So before we do any more business today,
21 we have a motion before the Court on the constitutional
22 challenge.

23 THE COURT: What is that constitutional challenge?

24 MR. FLOYD: It's a 5.1 constitutional challenge that
25 you cannot rule on. You are practicing law from the bench.

1 One more time. The judge is practicing law from the bench.

2 THE COURT: Oh, we want to get this down.

3 MR. FLOYD: Absolutely. Because we need it for an
4 appeal.

5 THE COURT: Yes, we do. The Court of Appeals needs
6 to understand everything the Court dealt with today.

7 MR. FLOYD: Yes, sir. And the Court needs to
8 understand that my list of motions was dismissed -- or
9 supposedly dismissed because the judge is not -- the judge is
10 being biased to the case and practicing law from the bench. I
11 do not feel that I'm going to get a fair trial.

12 THE COURT: I understand.

13 MR. FLOYD: I do -- I feel that somebody has paid
14 you off in this matter. And I feel that you're the
15 beneficiary of this matter. I do not feel that I have -- will
16 get a fair trial in this matter period.

17 THE COURT: All right, Mr. Floyd. Now, what are
18 you -- with regard to the attorney issue, are you wanting --
19 are you hiring your own attorney? Because you are entitled to
20 hire your own attorney.

21 MR. FLOYD: Once again, Your Honor, I am seeking
22 competent counsel. This lady works for you. This lady has no
23 interest in what happens to me.

24 Number one -- number one, under *Trinsey versus*
25 *Pagliaro*, statements of counsel, arguments or briefs doesn't

1 have standing for a summary judgment. So anything that
2 supposedly this lady felt like she was representing does not
3 have standing period. She made a plea -- she made a plea
4 against my objections, period, in this case. I objected, I
5 objected, and I objected to this lady to make any plea for the
6 American national --

7 THE COURT: And what plea --

8 MR. FLOYD: -- domiciled here in North Carolina --
9 in the State of North Carolina.

10 THE COURT: What plea did she make that you object
11 to? Not guilty?

12 MR. FLOYD: To any plea. I didn't -- I don't
13 understand. I do not understand and she proceeded on and
14 threw me -- and one of your cohorts threw me in jail to gain
15 the jurisdiction.

16 So back to the -- back to the original. There's a
17 constitutional challenge in front of this Court. You do not
18 have the capacity to rule on it. It needs to come from the
19 attorney general. So at this point I'm going to ask you to
20 take care of the matter.

21 THE COURT: To take care of a matter that you don't
22 think I have --

23 MR. FLOYD: You wait until the Court -- you wait
24 until the attorney general rules on it --

25 THE COURT: Uh-huh.

1 MR. FLOYD: -- and then we will move forward.

2 THE COURT: Okay. Motion denied.

3 MR. FLOYD: Once again --

4 THE COURT: Motion --

5 MR. FLOYD: Once again, you can't rule on it because
6 it's a constitutional challenge. It's a political question.
7 Judges cannot do that. You're a party to the matter.

8 THE COURT: All right. Mr. Floyd, we have -- what
9 motion do you want to be ruled on right now?

10 MR. FLOYD: I want every motion in here in my --
11 that's in my -- put back in the case.

12 THE COURT: All those motions that have been denied
13 are going to stay denied. You'll be able to do those on
14 appeal following your trial --

15 MR. FLOYD: Hold on.

16 THE COURT: -- before a jury.

17 MR. FLOYD: Until we resolve this matter, there is
18 no trial.

19 THE COURT: Well, let me just say this, Mr. Floyd.
20 You don't set the rules. And we certainly --

21 MR. FLOYD: I understand I don't set the rules --

22 THE COURT: You can certainly represent yourself.

23 MR. FLOYD: -- but there are rules you need to
24 follow.

25 THE COURT: Oh, I'm following the rules, Mr. Floyd.

1 In spite of your misunderstanding of them, I'm doing the best
2 that I can to follow them.

3 MR. FLOYD: Your Honor, I respect --

4 THE COURT: You're a disruptive -- you're a
5 disruptive defendant and I'm going to -- I want you to be -- I
6 want you to follow the rules that we do here today. I'm being
7 as patient as I can with you.

8 Now, my question to you is, the motion that we still
9 have in front of us is that you are asking the Court today to
10 continue the case pending you finding what you say is
11 competent counsel. Am I right about that? Are you still --
12 are you not wanting to do that?

13 MR. FLOYD: I am looking for someone that's
14 competent.

15 THE COURT: We'll have to either -- we're either
16 going to try the case this term and put a jury in the box
17 tomorrow, which will probably be here for a while. But --

18 MR. FLOYD: Listen.

19 THE COURT: No, no, no. You listen to me first,
20 Mr. Floyd. You listen to me now.

21 We're either going to do that or -- or -- or I could
22 continue the case if there is a reason to continue it. Either
23 you're not ready for trial because you haven't seen the
24 discovery enough; you don't understand everything yet. Or
25 you're seeking to hire your own attorney.

1 MR. FLOYD: Your Honor --

2 THE COURT: If you're going to do one of those
3 things, we can continue the case. And if we continue the
4 case, we're done here. If we don't continue the case, we're
5 probably done here anyway because we're all going to show back
6 up tomorrow and pick a jury. And we're going to -- we're
7 going to hear that case and we're going to follow the rules of
8 evidence. And if I make a mistake of constitutional or
9 otherwise ways, then you can appeal this to the Fourth Circuit
10 Court of Appeals in Richmond, Virginia. At which point those
11 judges up there will take a look at it, and if they think I'm
12 wrong, they'll send it back. And if you don't like what they
13 say, you can try to go to the United States Supreme Court from
14 there. And they may or may not take that case. And if they
15 take the case and they say I'm wrong, they'll send it back.
16 There are people up line that take care of these things when I
17 make a mistake.

18 But all things, constitutional issues and others,
19 all start right here at the district court. The cases go up
20 and the law comes down. That's the way we run the system.
21 The cases start with me. They're looked at all the way up and
22 eventually the law comes down. I'm either right or wrong.
23 And that's the way that it works.

24 So do you wish a continuance until another term?

25 MR. FLOYD: Once again, Your Honor, what's before

1 the Court needs to be decided. I can't make any decision
2 until this constitutional challenge is taken care of.

3 THE COURT: What constitutional challenge is that?

4 MR. FLOYD: And this is the 5.1 questioning the
5 statutes.

6 THE COURT: Oh, okay.

7 MR. FLOYD: The statutes --

8 THE COURT: Those motions are denied.

9 MR. FLOYD: -- in which these gentlemen that -- are
10 not competent witnesses. There is no firsthand knowledge.

11 THE COURT: Yeah, they're not witnesses.

12 MR. FLOYD: No, no, they're not -- they're not
13 witnesses.

14 THE COURT: No.

15 MR. FLOYD: They can't speak in the court period.

16 THE COURT: Motions -- motion finding the statutes
17 unconstitutional, and I believe that is your motion, I will
18 preserve that for appeal. Denied.

19 MR. FLOYD: Okay.

20 THE COURT: So those are resolved.

21 MR. FLOYD: I'm not accepting your offer.

22 THE COURT: Now we can proceed.

23 MR. FLOYD: If you want to continue the case, that's
24 up to you. But I'm not continuing the case on that -- on that
25 ground. I'm continuing -- only reason I would be continuing

1 the case for 60 days is to get the constitutional challenge.

2 THE COURT: Okay.

3 MR. FLOYD: That's it.

4 THE COURT: A lawyer -- a lawyer --

5 MR. FLOYD: No, no, no, no, no. This goes to your
6 boss.

7 THE COURT: So you're ready to try the case, then,
8 this week.

9 MR. FLOYD: I'm not ready to do anything. I haven't
10 even got proper service from these guys.

11 THE COURT: Well, we're either -- either you're
12 wishing to continue the case to get competent counsel that you
13 say you need to have or some other reason or you're not. If
14 you're not moving to continue the case --

15 MR. FLOYD: Your Honor --

16 THE COURT: -- these guys are not moving to continue
17 the case, I think we've got a trial. And all of these issues
18 will go up to the Court of Appeals --

19 MR. FLOYD: I've already got a motion --

20 THE COURT: -- and they will have great interest in
21 this case.

22 MR. FLOYD: I've already got a motion to continue.

23 THE COURT: Okay.

24 MR. FLOYD: And it's the constitutional challenge.
25 There is a motion in front of the Court to continue the case

1 for 60 days --

2 THE COURT: What are you --

3 MR. FLOYD: -- under the constitutional challenge.

4 THE COURT: What are you -- what are you going to do
5 during the 60 days?

6 MR. FLOYD: I'm going to look for competent --
7 competent legal counsel.

8 THE COURT: Okay.

9 MR. FLOYD: So that's where it's at, but it still
10 goes back to the constitutional challenge.

11 THE COURT: Let me hear from the government.

12 MR. BAILEY: Thank you, Your Honor.

13 THE COURT: I may be sick July 17th if both of these
14 cases are on.

15 MR. BAILEY: The United States would oppose
16 Mr. Floyd's motion to continue. He's had over eight months
17 since indictment --

18 MR. FLOYD: Objection, Your Honor. He has no
19 firsthand knowledge.

20 THE COURT: Mr. Floyd --

21 MR. FLOYD: Objection.

22 THE COURT: Mr. Floyd --

23 MR. FLOYD: Objection.

24 THE COURT: Mr. Floyd, he gets to argue the case.
25 This is not evidence, this is argument. Okay.

1 MR. FLOYD: Anything he says is testimony.

2 THE COURT: No, it's not, Mr. Floyd. Nothing you
3 said is testimony and nothing he says is testimony. Now, you
4 have to go in order. Let's have order. Let's let counsel
5 talk.

6 Yes, sir. Go ahead, please.

7 MR. BAILEY: He's had over eight months since he was
8 indicted to find representation on his own. He's had six
9 weeks since the last time we were in court to find
10 representation on his own. And he chose, again, seven to ten
11 days before this hearing to say that he now wants to find --
12 and I want to quote this -- proper legal representation.

13 And I don't believe that Mr. Floyd believes that
14 proper legal representation is going to be a barred attorney,
15 Your Honor. That would be the government's second objection
16 to this motion. I believe proper legal representation in
17 Mr. Floyd's mind is not a barred attorney.

18 We do know -- the government does know, and
19 Mr. Floyd knows as well, that when he was incarcerated for the
20 contempt of court, he was trying to coordinate with a
21 legitimate attorney in Charlotte, North Carolina.

22 MR. FLOYD: Objection, Your Honor. She had
23 already -- make the facts -- I want the truth, the whole truth
24 and nothing but the truth. Objection.

25 THE COURT: This is -- this is argument.

1 MR. FLOYD: Objection.

2 THE COURT: This is argument.

3 MR. FLOYD: No, we're not putting anything on the
4 record. No, no. Objection.

5 THE COURT: This is argument, not testimony. Let
6 him argue. I understand the objection. Objection is
7 overruled as to argument.

8 Yes, sir. Go ahead.

9 MR. BAILEY: One that he would have retained and he
10 chose not to go down that path, but he did investigate that
11 path during that time frame. And that shows that he could
12 have had some forethought in retaining an attorney and he
13 chose not to, Your Honor. So the government would oppose his
14 motion to continue.

15 MR. FLOYD: Objection.

16 MR. BAILEY: The government is ready to proceed.
17 The witnesses are in town and we are ready to go tomorrow,
18 Your Honor.

19 THE COURT: All right. Now, Mr. Floyd, what would
20 you like to say in response to the fact that he says he's
21 ready --

22 MR. FLOYD: I'm rebutting what he's saying for the
23 record that that is not true. That she had been relieved of
24 duty before she did it. So the facts are not correct.
25 Objection.

1 Your Honor, once again, based on what's going on
2 here and based on you ruling from the bench, I'm going to ask
3 you to recuse yourself from the case. Once again, I'm going
4 to ask you to recuse yourself from the case because I feel
5 like I'm not going to get a fair trial. I'm not going to get
6 a fair trial. It's already been biased. You put it in your
7 paperwork. You already put it in your paperwork. Once again,
8 I'm asking you to recuse yourself from this -- from this
9 matter.

10 THE COURT: Although that's a motion I would
11 desperately love to grant, I'm not going to grant it.

12 MR. FLOYD: It's not a motion. You need to recuse
13 yourself from the matter. I will not get a fair trial. I
14 already feel threatened --

15 THE COURT: Threatened?

16 MR. FLOYD: -- by the situation. I don't feel
17 like -- I think it's going to affect your bank account. I
18 think you're getting paid to be biased in this situation. And
19 I do not feel like it's going to be a fair trial period.
20 That's the reason I'm asking you to recuse yourself, to recuse
21 yourself, and to recuse yourself.

22 THE COURT: Denied, denied, denied.

23 MR. FLOYD: And recuse yourself.

24 THE COURT: Denied.

25 MR. FLOYD: Recuse yourself.

1 So once again, you can do as you wish, but there is
2 no -- look, there is no competent witness for the Court to
3 have subject matter. Where is the injured party? Who is the
4 injured party?

5 THE COURT: Mr. Floyd -- Mr. Floyd, you're going to
6 have to stop asking questions of --

7 MR. FLOYD: This is a part of the case.

8 THE COURT: -- counsel. You've --

9 MR. FLOYD: Who is the injured party here?

10 THE COURT: You've made your argument.

11 MR. FLOYD: Who is the injured party?

12 THE COURT: All right. Let the --

13 MR. FLOYD: I think you guys need time to get this
14 worked out. I think you guys need time to establish all the
15 jurisdictional challenge which exists in this case.

16 THE COURT: The government -- the government says
17 it's ready and the Court is satisfied that the jurisdiction is
18 here for your trial. Whether you're --

19 MR. FLOYD: Hey, I'm not ready. I'm not ready in
20 this matter period.

21 THE COURT: All right. We're going --

22 MR. FLOYD: But it's under -- but it's under the
23 5.1.

24 THE COURT: We are going -- we are going to continue
25 this one more time to July the 17th.

1 MR. FLOYD: Make it -- listen. Listen. My child
2 goes to college --

3 THE COURT: Mr. Floyd. Mr. Floyd. Mr. Floyd,
4 you're going to have to be quiet. I'm trying to be as patient
5 as I can, but you're going to have to be quiet.

6 On July 17th we're going to come in here and we're
7 going to try this case. We're going to pick a jury right here
8 and we're going to try this case.

9 Now, when the case is over, all these errors that
10 you say I've committed will then be ripe to go up to the
11 Fourth Circuit Court of Appeals in Richmond, Virginia, at
12 which point those -- the judges up there, and there are some
13 great ones up there, will take a look at this case and decide
14 if you lose -- now, a jury may turn you loose.

15 MR. FLOYD: I do see -- I do see that all --

16 THE COURT: They may turn you loose.

17 MR. FLOYD: I do see that all the cases he's recited
18 is from the Fourth Circuit. I do see that. So I see that
19 he's part of the bastardization of the system --

20 THE COURT: Well --

21 MR. FLOYD: -- already. I see that.

22 THE COURT: And Mr. Floyd, when we try this case,
23 we're going to try it in order. I certainly give -- will give
24 a pro se defendant a little bit of leeway, but you will not
25 disrupt this case. You will not -- let me just tell you this.

1 You will not charge -- once we try this case, you will not
2 charge anyone with bribery --

3 MR. FLOYD: Whoa, whoa, whoa, whoa, whoa, whoa,
4 whoa.

5 THE COURT: -- or anything -- or anything like that.

6 MR. FLOYD: Are you --

7 THE COURT: Mr. Floyd --

8 MR. FLOYD: -- taking my due process rights? Hold
9 on. Whoa, whoa, whoa.

10 THE COURT: Mr. Floyd.

11 MR. FLOYD: Whoa, whoa, whoa. Are you taking my --

12 THE COURT: I'm talking about the Court.

13 MR. FLOYD: -- constitutional rights?

14 THE COURT: I'm talking about the Court. You're
15 not --

16 MR. FLOYD: No, I'm talking about collateral attack.
17 Whoa, whoa, whoa.

18 THE COURT: You're talking --

19 MR. FLOYD: You can't deny me that.

20 THE COURT: You're not going to --

21 MR. FLOYD: Once again, you need to recuse yourself
22 because you're stepping on my due process rights.

23 THE COURT: All right. This matter is continued
24 until July 17th and we're done here today, Mr. Floyd. We are
25 done.

1 MR. FLOYD: I look forward to getting once again --

2 THE COURT: We will see you on July 17th.

3 MR. FLOYD: Once again, I look forward to getting
4 the attorney general's reply.

5 THE COURT: Okay.

6 MR. FLOYD: And at that time we will decide what
7 happens.

8 THE COURT: General Sessions --

9 MR. FLOYD: But right now --

10 THE COURT: General Sessions I'm sure cannot wait to
11 hear from you.

12 MR. FLOYD: Are you my attorney? Are you
13 representing me? Hey, hey.

14 THE COURT: She's a marshal.

15 THE MARSHAL: It's time to go.

16 MR. FLOYD: Whoa, whoa, whoa. I come in peace.
17 Hang on. If you throw me out of the court, I won't be back.
18 Hey, what are you trying to get, an army against me? Whoa,
19 whoa, whoa, whoa, whoa. Don't be grabbing me. Whoa, whoa,
20 whoa, whoa. Are you trying to -- whoa, whoa, whoa.

21 (Defendant was removed from the courtroom.)

22 MR. BAILEY: Have a good day, Your Honor.

23 (End of proceedings at 10:11 a.m.)

24 *****

25

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NORTH CAROLINA
3 CERTIFICATE OF REPORTER
4
5

6 I, Cheryl A. Nuccio, Federal Official Realtime Court
7 Reporter, in and for the United States District Court for the
8 Western District of North Carolina, do hereby certify that
9 pursuant to Section 753, Title 28, United States Code, that
10 the foregoing is a true and correct transcript of the
11 stenographically reported proceedings held in the
12 above-entitled matter and that the transcript page format is
13 in conformance with the regulations of the Judicial Conference
14 of the United States.

15
16 Dated this 1st day of June 2017.

17
18
19 s/Cheryl A. Nuccio
20 Cheryl A. Nuccio, RMR-CRR
21 Official Court Reporter
22
23
24
25